

**FILED**

**MAY 11 2015**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR  
AGENCY ACTION OF ENEFIT AMERICAN  
OIL [*sic*, CO.] FOR AN ORDER ENLARGING  
THE DESIGNATED OIL SHALE AREA  
CREATED BY CAUSE NOS. 190-3 AND 190-13  
TO INCLUDE LANDS LOCATED IN  
TOWNSHIPS 9 AND 10 SOUTH, RANGES 24  
AND 25 EAST, SLM, Uintah County, Utah

**OBJECTION OF RESPONDENT  
T-K PRODUCTION COMPANY**

Docket No. 2015-017

Cause No. 190-14

Respondent T-K Production Company (“T-K”), acting by and through its attorneys, MacDonald & Miller Mineral Legal Services, PLLC, and pursuant to Utah Admin. Code Rule R641-105-200, hereby respectfully objects and responds to Petitioner Enefit American Oil’s [*sic*, Co.’s] (“EAO’s”) Request for Agency Action filed on April 8, 2015 in this Cause (the “RAA”) as follows:

1. T-K is a Montana corporation in good standing, with its principal place of business in Billings, Montana. T-K is duly qualified to conduct business in the State of Utah, and is fully bonded to own State of Utah leases and agreements.

2. T-K is the current lessee of the following State of Utah Oil, Gas and Associated Hydrocarbon Leases covering the following lands which are the subject of the RAA:

<u>Lease No.</u>	<u>Lands (all in T9S, R25E, SLM)</u>
ML-52859	Section 19: S $\frac{1}{2}$
ML-52861	Section 28: S $\frac{1}{2}$
ML-52863	Section 30: Lots 1-15, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ [All less patented mining claims]
ML-52864	Section 31: Lots 1-3, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$
ML-52865	Section 32: Lots 1-10, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ [All less patented mining claims]
ML-52866	Section 33: Lot 1, NW $\frac{1}{2}$ NW $\frac{1}{4}$
ML-53037	Section 33: Lots 2-5, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$

In addition, T-K is a party to Oil & Gas Exploration and Development Agreement ML-90007-OBA with the State of Utah, pursuant to which oil, gas and associated hydrocarbon leases may be acquired on additional lands, including the following lands which are the subject of the RAA:

Township 10 South, Range 24 East, SLM

Section 1: Lots 1-5, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$

All said described lands are collectively hereinafter referred to as the "SITLA Lands."

3. EAO State Leases, LLC (“ESL”) is the alleged owner of oil shale leases granted by the State of Utah also covering the SITLA Lands. EAO is alleged to be affiliated with ESL and, if and only to the extent of such affiliation, is an “interested person” as that term is used in Utah Admin. Code Rule R649-3-31(2) as relating to the SITLA Lands.

4. T-K and ESL, both on its own behalf and its “affiliates,” entered into a Cooperative Development Agreement dated effective June 19, 2014 covering all of the SITLA Lands except Section 1 of T10S, R24E, SLM (the “CDA”). The CDA already specifies and outlines the Parties’ agreement on drilling and casing standards deemed protective of the oil shale reserves, as well as procedures to resolve development disputes. No CDA currently exists between T-K and ESL as to Section 1 of T10S, R24E, SLM.

5. On November 20, 2014, KGH Operating Company (“KGH”), contracted operator on behalf of T-K, submitted an application for permit to drill (“APD”) for the “State 28-13” Well, to be drilled vertically at a location 1,036 feet FSL and 971 feet FWL in the SE¼SE¼ of Section 28, T9S, R25E, SLM, upon Lease ML-52861. The APD remains in pending status, awaiting approval by the Division of Oil, Gas and Mining (the “Division”), presumably, at least since April 8, 2015, due to the filing of the RAA. The APD was modified on December 12, 2014 and again on February 11, 2015 at the request

of the Division. KGH is fully bonded to conduct oil and gas operations by the relevant State of Utah agencies.

6. As reflected in the APD, KGH will set surface casing to a depth of 1,000 feet and production string will be set and cemented through the entire oil shale resource bearing zone to total depth, including the targeted oil and gas bearing zones. Both gamma-ray and cement bond (for the production string) logs will be run from total depth to surface. T-K believes and therefore avers that the drilling and completion procedures contained in the APD are in full compliance with the terms and conditions of the CDA and are fully protective of the oil shale resource pursuant thereto.

7. Copies of the APD, both as originally filed and as modified, were supplied to ESL concurrently or shortly after their filing with the Division. No objection to the well design, including casing and cement procedures, as set forth in the APD has ever been expressed by ESL to T-K.

8. Pursuant to the RAA, EAO seeks to declare the SITLA Lands as a "Designated Oil Shale Area" so that the standards and requirements set forth in Utah Admin. Code R649-3-31 will apply. In addition, EAO seeks to impose the additional standards set forth in the Board's Order entered March 12, 2001 in Cause No. 190-13 (the "190-13 Order") to the SITLA Lands.

9. However, as evidenced in the Request for Agency Action filed in Cause No. 190-13 (*see* ¶ 4) and the 190-13 Order itself (*see* Findings of Fact No. 10), the “Surface Casing” requirements of the 190-13 Order were premised on the fact that the depth of 100 feet below the base of the oil shale resource bearing zone (the Mahogany Zone in the Parachute Creek member of the Green River formation) was “a depth calculated not to exceed 600 feet in the expanded Designated Oil Shale Area.” Unfortunately, whether due to scrivener error or unintended omission, that premise was not stated as part of the Board’s actual order (*see* Order No. 3(b)). Preliminary and limited geologic data received by T-K indicates the depth of the oil shale resource zone, as relevant to the SITLA Lands, varies from approximately the previously represented 600 feet in the vicinity of the proposed State 28-13 Well and the southeast, trending deeper towards the northwest to possibly 1,200 feet or deeper.

10. As relating to the Lands covered by the CDA, and to the extent that EAO, by virtue of the RAA, seeks to supplement the requirements of the CDA and impose stricter regulatory or 190-13 Order requirements by now designating said lands as “Designated Oil Shale Areas,” T-K objects on the basis that EAO seeks to modify existing and binding contractual agreements. Furthermore, EAO has failed to allege or otherwise justify why the existing CDA provisions and/or the drilling and completion procedures of the APD do not adequately protect the oil shale resource. Finally, the RAA

is premature until such time as ESL has complied with and fully exhausted the dispute procedures outlined in the CDA.

11. Furthermore, the premise of the 190-13 Order that the oil shale resource bearing zone exists at depths at or shallower than 600 feet is incorrect and, if the requirements of said Order are adopted, may require surface casing possibly to an additional 600 feet or more. The costs relating to surface casing and associated cementing and logging grow exponentially with depth and could very easily make the oil and gas development cost-prohibitive, especially given today's economic circumstances. Although the State 28-13 Well will have surface casing set to 1,000 feet, geologic and engineering data from that Well may dictate that surface casing for future wells may only need be set at shallow depths. Additionally, requiring deeper surface casing will increase operational, safety and environmental risks associated with the drilling of the surface hole, proper installation and cementing of casing, as well as well control issues should stray gas zones be encountered.

12. T-K also objects to the following additional standards contained in the 190-13 Order:

- a) Centralizers - Use of centralizers must be flexible and not mandatory depending on hole conditions. There are numerous problems that could be encountered preventing use of centralizers as outlined.

- b) Cement Mixture - Industry standard for ultimate compressive strength is 3000 psi, not 4000 psi. The standard should be no more than industry standard.
- c) Cement Bond Log - The required logs should be clarified and limited to the production string through the oil shale resources zone only.
- d) Drilling Into Mined or Pre-Existing Permitted Mine Areas. Any such conditions are premature at this time since no such areas exist within the SITLA Lands. Protective measures should be designed only if and when an actual mine plan is submitted and approved, and then only in accordance with the terms of the CDA.

13. In addition, T-K has specific current plans for oil and gas development, as evidenced by the APD, whereas ESL's development is merely speculative at this juncture, with no mine plan on file and no stated near-term development plans. Consequently, there is no current justification for imposing any requirements beyond those of the CDA.

14. T-K is concurrently filing exhibits, and will at hearing provide testimony, supporting these allegations.

**WHEREFORE**, for the foregoing reasons, T-K respectfully requests the Board to:

- 1) deny the RAA insofar as it pertains to the SITLA Lands;
- 2) alternatively to indefinitely continue this Cause until such time as ESL fully complies with and exhausts the dispute resolution provisions of the CDA;

- 3) alternatively if the Board is to adopt the 190-13 Order standards, to modify them to resolve the objections stated above; and
- 4) for such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted this 11<sup>th</sup> day of May, 2015.

**MACDONALD & MILLER  
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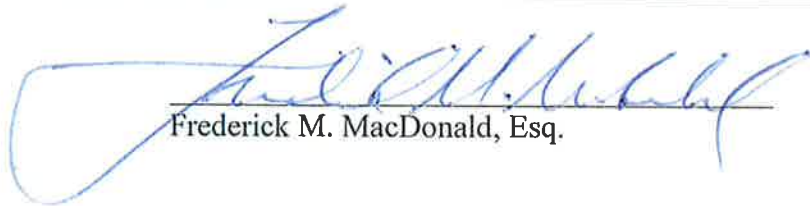
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of May, 2015, I caused a true and correct copy of the foregoing Objection of Respondent T-K Production Company to be sent electronically (where e-mail addresses are indicated) and/or mailed, postage pre-paid, to the following:

<p>Mark L. Burghardt, Esq. William E. Ward, Esq. Holland &amp; Hart, LLP 222 South Main Street, Suite 2200 Salt Lake City, UT 84101 E-mails: <a href="mailto:mlburghardt@hollandhart.com">mlburghardt@hollandhart.com</a> <a href="mailto:weward@hollandhart.com">weward@hollandhart.com</a></p> <p>Attorneys for Petitioner Enefit American Oil [<i>sic</i>, Co.]</p>	<p>Thomas A. Mitchell, Esq. LaVonne Garrison, Associate Director - Oil and Gas Utah School and Institutional Trust Lands Administration 675 E. 500 South, #500 Salt Lake City, UT 84102 E-mails: <a href="mailto:tommitchel@utah.gov">tommitchel@utah.gov</a> <a href="mailto:lavonnegarrison@utah.gov">lavonnegarrison@utah.gov</a></p>
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